

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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H&H METALS CORP.,

Plaintiff,

v.

ERNESTO BERNADET,

Defendant.

Case No. 21 CV 01323 [JPO]

**AMENDED
DEFAULT JUDGMENT**

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WHEREAS, on February 15, 2021, plaintiff H&H METALS CORP. (“H&H”) filed its Complaint in this action (“Complaint”; Doc. No. 1), alleging, *inter alia*, that defendant ERNESTO BERNADET (“Bernadet”), had guaranteed repayment of the following advances made by H&H to AMA Resources, Inc, a Florida Corporation (“AMA”), together with interest and the costs of collection, including attorney’s fees:

(1) \$435,000 advanced on May 6, 2019, plus interest calculated to August 31, 2020 for a total of \$507,607.06 (“First Loan”). *See* Complaint at ¶¶7-9 and Exhibits B & C;

(2) \$346,544.52 advanced in connection with the Second Loan (as defined in the Complaint) on the following dates. *See id.* at ¶11:

(a) on October 30, 2020 in the amount of \$192,660.7. *See id.* at Exhibit E;

(b) on November 4, 2020 in the amount of \$25,000.00. *See id.* at Exhibit F);

(c) on November 13, 2020 in the amount of \$48,090.00. *See id.* at Exhibit G;

(d) on November 27, 2020 in the amount of \$5,169.24. *See id.* at Exhibit H;

and

(e) on December 4, 2020 in the amount of \$75,624.57. *See id.* at Exhibit I;

(3) \$7,783.25 in interest at 12% per annum accrued as of January 1, 2021, (y) from

September 1, 2020 for the First Loan and (z) from the date funds were advanced under the Second Loan. *See id.* at ¶¶16, 19 and Exhibit K;

WHEREAS, as alleged in the Complaint, AMA defaulted on its obligation to make the first repayment installment due on January 1, 2021, for advances and accrued interest then in the amount of \$861,934.83 (“Default Amount”). *See* Complaint at ¶¶12-13 and Exhibit J;

WHEREAS, as a result of the aforementioned default, AMA’s obligations were accelerated and Bernadet became obligated under his guaranty dated October 8, 2020 (the “Guaranty”) to pay the Default Amount and the Obligations (as defined in the Guaranty), including interest and the costs of collection. *See* Complaint at ¶¶14-17 and Exhibits D & K.

WHEREAS, H&H is entitled to recover interest at 15% per annum (“Default Interest”) on the Default Amount for the period after January 1, 2021. *See* Complaint at ¶19 and Exhibit C (Note setting default interest rate at 15% per annum);

WHEREAS, on January 20, 2022, the Court issued an Order granting H&H’s motion for default judgment, and denying Bernadet’s cross-motion to vacate the default (Doc. No. 30);

WHEREAS, on January 21, 2022, the Court issued an Order directing H&H to set forth the total monetary award owed to it through January 20, 2022, with an explanation for what that award reflects (Doc. No. 31);

WHEREAS, pursuant to the Court’s order, H&H calculated that as of January 20, 2022, the Default Interest on the Default Amount of \$861,934.83, at the rate of 15% per annum, amounts to \$136,020.48;

WHEREAS, AMA and Bernadet, as its guarantor, are obligated to reimburse H&H for attorney's fees and legal expenses incurred in the collection of the principal and interest due. *See* Complaint at ¶20 & Exhibit B at ¶¶4 & 7 and Exhibit D;

WHEREAS, H&H accrued legal fees and costs in connection with the costs of this collection action through January 20, 2022 for a total of \$59,870.72 as supported by:

(1) the Declaration of Catherine S. Campbell, Esq., dated April 16, 2021 (Doc. No. 15 at ¶¶9-15 and Exhibit 4) for a total of \$24,792.63 for the period January 7, 2020 to April 16, 2021; and

(2) the Declaration of Catherine S. Campbell, Esq. dated January 27, 2022 (Doc. No. 32 at ¶¶ 2-7 and Exhibit 1) for a total of \$35,078.09 for the period May 1, 2021 to January 20, 2022;

It is ORDERED, ADJUDGED AND DECREED, that pursuant to the Court's Order dated January 20, 2022 and the Court's Order dated January 21, 2022, judgment is entered in plaintiff's favor against defendant, in the amount of \$861,934.83, plus accrued interest at \$136,020.48 and costs and expenses including reasonable attorney's fees in the amount of \$59,870.72, for a total amount of \$1,057,826.03.

The Clerk of Court is directed to close this case.

Dated: New York, New York
February 2, 2022



J. PAUL OETKEN
United States District Judge